

ORIGINAL

FILED

April 28 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 10-0092

IN THE MATTER OF:

T.H.,

A Youth in Need of Care.

FILED

APR 28 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

**MOTION FOR EXTENSION OF TIME
AND AFFIDAVIT IN SUPPORT**

COMES NOW, Joseph P. Howard, counsel of record for the Appellant Father (R.H.), and respectfully requests an extension of time until May 12, 2010, in which to prepare, file, and serve the Appellant's opening brief in the above-entitled matter. In support of this motion, undersigned counsel respectfully submits the following affidavit.

Respectfully submitted this 27 day of April, 2010.

JOSEPH P. HOWARD, P.C.
Joseph P. Howard
P.O. Box 268
Great Falls, MT 59403

By:


Joseph P. Howard

FILED

APR 28 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

STATE OF MONTANA)
 : ss
County of Cascade)

I, Joseph P. Howard, being first duly sworn upon my oath, depose and state as follows:

1. I am a licensed, practicing attorney in the State of Montana, and am currently employed by the Office of State Public Defender, Appellate Defender Office, as a contract attorney.

2. In my capacity as a contract attorney, I have been assigned to handle the above-entitled matter.

3. The Appellant's opening brief was first due on April 12, 2010.

4. As shown below, I have exercised diligence and have substantial need for the extension.

5. I mailed R.H. correspondence regarding his appeal on March 17, 24, 26, and 30, 2010. All of the letters were returned by the U.S. Postal Service as "not deliverable as addressed—unable to forward."

6. I was also unable to contact R.H. at his listed phone number as it had been disconnected.

7. On or about April 5, 2010, I was able to reach R.H. by a message phone and discuss his appeal. R.H. agreed to voluntarily dismiss his appeal in the

above entitled cause. On April 6, 2010, I sent R.H. a Motion to Voluntarily Dismiss Appeal for his review and signature.

8. On April 20, 2010, I called R.H. to inquire as to the status of the Motion to Voluntarily Dismiss Appeal and R.H. informed me that he never received the Motion. R.H. still wished to dismiss his appeal and I resent the Motion for his review and signature.

9. On April 23, 2010, I received a voicemail message from R.H. informing me that he wished to pursue the appeal regarding the above entitled cause.

10. On April 26, 2010, I spoke with R.H. and he confirmed that he now wishes to pursue the appeal.

11. I will work diligently to complete the matter in the time requested.

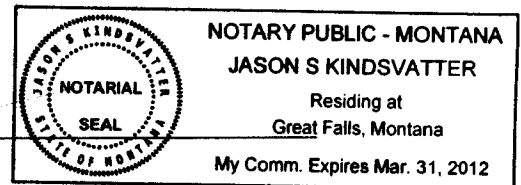
12. Opposing counsel has been contacted concerning this motion and does not object.

13. Further your affiant sayeth naught.


Joseph P. Howard

SUBSCRIBED AND SWORN to before me this 27 day of

April, 2010.



CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing
Motion for Extension of Time and Affidavit in Support to be mailed to:

STEVE BULLOCK
Montana Attorney General
MARK MATTIOLI
Assistant Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

BRETT D. LINNEWEBER
Park County Attorney
414 E. Callender
Livingston, MT 59047

VUKO VOYICH
PO Box 1409
Livingston, MT 59047

Copy to R.H. (father)

DATED: 4/27/10 